

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESALE PRICE)	MDL No. 1456
LITIGATION)	
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THIS DOCUMENT RELATES TO:)	CIVIL ACTION: 01-CV-12257-PBS
)	Judge Patti B. Saris
ALL ACTIONS)	
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PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL

Plaintiffs, by their attorneys, respectfully move this Court for leave to file under seal the following pleadings and other materials: (a) Plaintiffs' Memorandum in Opposition to Track 1 Defendants' Joint Motion for Summary Judgment; (b) Declaration of Steve W. Berman in Support of Plaintiffs' Memorandum in Opposition to Track 1 Defendants' Joint Motion for Summary Judgment; (c) Declaration of Raymond S. Hartman in Opposition to Defendants' Motion for Summary Judgment; (d) Plaintiffs' Opposition to AstraZeneca Pharmaceuticals LP's Motion for Summary Judgment; (e) Response of Plaintiffs to Defendant AstraZeneca Pharmaceuticals LP's Local Rule 56.1 Statement of Undisputed Facts in Support of Its Motion for Summary Judgment; (f) Declaration of Steve W. Berman in Support of Plaintiffs' Opposition to AstraZeneca Pharmaceuticals LP's Motion for Summary Judgment and Response of Plaintiffs to Defendant AstraZeneca Pharmaceuticals LP's Local Rule 56.1 Statement of Undisputed Facts in Support of its Motion for Summary Judgment; (g) Plaintiffs' Memorandum in Opposition to the BMS Defendants' Motion for Summary Judgment; (h) Declaration of Steve W. Berman in

Support of Plaintiffs' Memorandum in Opposition to the BMS Defendants' Motion for Summary Judgment and Response of Class Plaintiffs to Local Rule 56.1 Statement of Defendants Bristol-Myers Squibb Corporation and Oncology Therapeutics Network; (i) Plaintiffs' Opposition to the Johnson & Johnson Defendants' Motion for Summary Judgment; (j) Class Plaintiffs' Response to the Johnson & Johnson Defendants' Local Rule 56.1 Statement in Support of Their Motion for Summary Judgment as to Class 1 and Class 2; (k) Declaration of Steve W. Berman in Support of Plaintiffs' Opposition to the Johnson & Johnson Defendants' Motion for Summary Judgment; (l) Plaintiffs' Memorandum in Opposition to Schering-Plough Corporation's and Warrick Pharmaceuticals Corporation's Motion for Summary Judgment as to Class 2 Claims; (m) Response of Class Plaintiffs to Concise Statement of Undisputed Material Facts in Support of Schering-Plough Corporation's and Warrick Pharmaceutical Corporation's Motion for Summary Judgment; and (n) Declaration of Steve W. Berman in Support of Plaintiffs' Memorandum in Opposition to Schering-Plough Corporation's and Warrick Pharmaceuticals Corporation's Motion for Summary Judgment as to Class 2 Claims and Response of Class Plaintiffs to Concise Statement of Undisputed Material Facts in Support of Schering-Plough Corporation's and Warrick Pharmaceutical Corporation's Motion for Summary Judgment.

The foregoing items include or reference copies of documents and/or excerpts from documents that certain defendants have identified as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" pursuant to the terms of the December 13, 2004 Protective Order. Also, the foregoing items reference information contained in documents designated by certain defendants as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL." In addition, the foregoing items not only quote extensively from and/or attach documents that certain defendants have designated as

“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL,” but also they include references to pricing data that defendants likely believe to be highly proprietary in nature.

Paragraph 15 of the Protective Order mandates that any document or pleading containing material such as that referenced above be filed under seal. Plaintiffs hereby seek to comply with the terms of the Protective Order.

While plaintiffs seek to file the above-listed items under seal in order to comply with the Protective Order, plaintiffs believe that much if not all of the material that defendants have designated or likely deem to be “CONFIDENTIAL” or HIGHLY CONFIDENTIAL is not truly confidential or highly confidential. Accordingly, plaintiffs plan to move for an order unsealing the summary judgment (and other) materials recently filed by defendants under seal, in addition to the materials that plaintiffs themselves hereby seek to file under seal.

WHEREFORE, Plaintiffs respectfully request that this Court grant them leave to file the foregoing listed materials under seal.

DATED: April 7, 2006

By /s/ Steve W. Berman

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**CO-LEAD COUNSEL FOR
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CERTIFICATE OF SERVICE

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing **PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL** be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on April 7, 2006, a copy to LexisNexis File and Serve for Posting and notification to all parties

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